

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MARK NOENNIG**, on April 8, 2003 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Mark Noennig, Chairman (R)
Rep. Eileen J. Carney, Vice Chairman (D)
Rep. Arlene Becker (D)
Rep. Larry Cyr (D)
Rep. Ray Hawk (R)
Rep. Hal Jacobson (D)
Rep. Jesse Laslovich (D)
Rep. Bob Lawson (R)
Rep. Penny Morgan (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)

Members Excused: None.

Members Absent: Rep. Scott Mendenhall, Vice Chairman (R)
Rep. Rod Bitney (R)
Rep. Ronald Devlin (R)
Rep. Gary Forrester (D)
Rep. Rick Maedje (R)

Staff Present: Connie Erickson, Legislative Branch
Mari Prewett, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp in these minutes appears at the end of the content it refers to.

Committee Business Summary:

Hearing & Date Posted: SB 89, SB 384, SB 399, 3/31/2003
Executive Action: SB 89, SB 384, SB 399

HEARING ON SB 399

Sponsor: SEN. JOHN BOHLINGER, SD 7, Billings

Opening Statement by Sponsor:

SEN. BOHLINGER spoke on the involvement of the railroad in the history of Billings. He then discussed train crossings and the federal law requiring trains to blow their whistles prior to entering those crossings. **SEN. BOHLINGER** stated that SB 399 would create quite zones as the whistles were interrupting the daily lives of the people who live and work close to the tracks. He went on to inform the Committee that in 1996 the United States Congress developed the Railroad Safety Act. In doing so they directed the Federal Railroad Administration (FRA) to develop specifications for how a crossing must be designed and equipped for whistle free operation. He went on to say that the FRA was developing rules regarding what engineering would be required to implement a whistle ban or quite zone. **SEN. BOHLINGER** read from Rule Number 222.33, entitled "Establishment of Quite Zones," wherein it was stated that local governments could apply for quite zones.

SEN. BOHLINGER then read portions of the bill and talked about the built in safety mechanisms. He pointed out that quite zones would affect people all over the State.

A letter from Tim Davis, Executive Director, Montana Smart Growth Coalition supporting SB 399 was distributed to the Committee, attached as Exhibit 1.

EXHIBIT (loh75a01)

REP. FORRESTER arrived at the hearing.

Proponents' Testimony:

Jani McCall, City of Billings, expressed their strong support for SB 399 and the amendments included in the bill.

Alec Hansen, League of Cities and Towns, spoke in support of the bill. He stated that it was a reasonable solution to the problem of noise.

REP. BITNEY arrived at the hearing.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. BECKER asked **SEN. BOHLINGER** if he knew under 49 USC 201 addressed blindness and deafness, in terms of how the crossings would be constructed to provide safety. **SEN. BOHLINGER** responded that the issue of safety was of great concern and that he had seen a configuration of what had been proposed, but had not been adopted. He proceeded to explain his interpretation of those configurations. He further explained that safety measures would not be compromised, but would be enhanced.

REP. CARNEY referred **SEN. BOHLINGER** to Page 3, Lines 13-15 and asked about what she perceived as a contradiction. **SEN. BOHLINGER** explained that if quite zones were permitted the railroad companies would not be held liable should there be an accident. He further explained that the creation of quite zones was not favored by the railroad companies.

REP. MENDENHALL arrived at the hearing.

Closing by Sponsor:

SEN. BOHLINGER advised the Committee that should the bill be passed it would not be an added expense on the State. He explained that the community, that petitioned for and was allowed a quite zone, would be responsible for the cost.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 15.6}

REP. RASER left the hearing.

EXECUTIVE ACTION ON SB 399

Motion/Vote: **REP. OLSON** moved that **SB 399 BE CONCURRED IN**. Motion carried 16-0 by voice vote with **REPS. MAEDJE, DEVLIN** and **RASER** voting aye by proxy.

REP. ROY BROWN will carry **SB 399** on the floor of the House.

{Tape: 1; Side: A; Approx. Time Counter: 15.6 - 17.1}

CHAIRMAN NOENNIG read a letter from Greg Van Horssen into the record regarding **SB 222**, attached as Exhibit 2.

EXHIBIT(loh75a02)

HEARING ON SB 384

Sponsor: SEN. JEFF MANGAN, SD 23, Great Falls

Opening Statement by Sponsor:

SEN. MANGAN explained that SB 384 basically would allow local governments, in the areas of sewer, water, and power to contract for those services, without going under bidding, if they had held the contract for the previous five years. He went on to discuss the values of the proposed program and urged the Committee to support the bill.

REP. RASER returned to the Hearing.

Proponents' Testimony:

Tom Daubert, U. S. Filter Corporation, spoke in support of SB 384. He explained their business and how it was operated. He pointed out that they were able to operate their plants and pump stations with fewer employees making the job more economical to Great Falls. He urged the Committee to support the bill.

{Tape: 1; Side: A; Approx. Time Counter: 18.8 - 25.8}

Jerry Driscoll, AFL-CIO, spoke in support of SB 384 and urged the Committee to pass the bill.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

CHAIRMAN NOENNIG discussed with Mr. Daubert the length of their contract and the bid process by which they obtained their contract.

CHAIRMAN NOENNIG asked SEN. MANGAN the cost of the bid process. **SEN. MANGAN** responded that the time and money spent on the contract was most likely over \$50,000.

CHAIRMAN NOENNIG asked SEN. MANGAN who had requested the bill. **SEN. MANGAN** replied that U. S. Filter Corporation had requested the bill.

REP. MENDENHALL asked SEN. MANGAN if the bill would apply to Butte also, since U. S. Filter was going to be doing work there

as well. **SEN. MANGAN** indicated that he did not know if it would apply to Butte as he was not familiar with the project. He went on to explain what he liked about the bill the most.

REP. MENDENHALL asked **SEN. MANGAN** if the bill would be an incentive for other private entities to get involved in the contracting process. **SEN. MANGAN** stated that he believed it would.

Closing by Sponsor:

SEN. MANGAN stated that the plant, people and employees in his district were concerned about job security. He continued that U.S. Filter provided good paying jobs and was a good company. He asked for a do concur on SB 384.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 9.6}

EXECUTIVE ACTION ON SB 384

Motion: **REP. OLSON** moved that SB 384 BE CONCURRED IN.

Discussion:

CHAIRMAN NOENNIG, **REP. BECKER** and **REP. OLSON** discussed the reason for passing a bill that would make an exemption for one company in the bidding requirement.

Vote: Motion that SB 384 BE CONCURRED IN carried 16-0 by voice vote with **REPS. MAEDJE** and **DEVLIN** voting aye by proxy.

REP. CARNEY will carry SB 384 on the floor of the House.

{Tape: 1; Side: B; Approx. Time Counter: 9.6 - 16}

HEARING ON SB 89

Sponsor: **SEN. BILL TASH**, SD 17, Dillon.

Opening Statement by Sponsor:

SEN. TASH stated that SB 89 was an act exempting property held by local governments from the "Uniform Unclaimed Property Act." He indicated that he had brought the bill forward at the request of the Montana Association of Counties. He pointed out that the majority of the unclaimed property was from warrants, in small amounts, that had been issued and never presented for payment.

He went on to explain that it would be beneficial for local governments to retain these unclaimed funds.

Proponents' Testimony:

Ronda Carpenter, Montana County Treasurer's Association, spoke in favor of SB 89. She pointed out areas of the present code for clarification. She went on to say that she did not agree with the amounts represented on the fiscal note. She continued by explaining what happened to unclaimed warrants and indicated that passage of SB 89 would cut down on the paperwork. **Ms. Carpenter** concluded by stating that unclaimed county funds did not belong in the general fund.

Gordon Morris, Montana Association of Counties (MACo), expressed their support for SB 89. He indicated it was a fairness issue and that the funds should be recycled in the county that they originated from.

{Tape: 1; Side: B; Approx. Time Counter: 16 - 25.4}

{Tape: 2; Side: A; Approx. Time Counter: 0 - 0.7}

Alec Hansen, Montana League of Cities and Towns, stated that his organization supported SB 89. **Mr. Hansen** discussed 36 checks that had been written off by the City of Columbia Falls. He explained to the Committee where the funds had come from and the size of the checks in question. He continued that he felt the funds should stay with the local entities and felt SB 89 was a good bill.

Don Hargrove representing Gallatin County, declared his support for SB 89. He expressed his opinion that SB 89 provided a more efficient way to handle the unclaimed funds. He continued that what they were talking about was a fairness issue.

Don Allen, Anaconda, Deer Lodge, Granite and Powell Counties, stated they felt it was the right thing to do and that they would appreciate the Committee's support of the bill.

Dale Bickell, Missoula County, discussed Missoula's warrants and tangible property. He went on to explain their position, that they were already exempt, and gave their reasons for that belief. He concluded by asking that the Committee support SB 89.

Opponents' Testimony: None

Informational Testimony:

Neil Peterson, Department of Revenue, walked the Committee through the history and concept of unclaimed property. He presented the Committee with an outline of his testimony, attached as Exhibit 3.

EXHIBIT (loh75a03)**Questions from Committee Members and Responses:**

REP. MENDENHALL asked Mr. Peterson if SB 89 were enacted if the State would continue to inventory and do all of the work in terms of managing unclaimed property. **Mr. Peterson** answered that local governments would not report unclaimed property so they would not have to deal with it. They would, however, still manage the property that had been reported to date.

REP. MENDENHALL asked Mr. Peterson what percentage of unclaimed property collected would fall within the scope of the bill. **Mr. Peterson** replied that it would be approximately five percent.

REP. JACOBSON and **Mr. Peterson** discussed the net number of refunds.

CHAIRMAN NOENNIG and **Mr. Peterson** discussed how much of the unclaimed property was warrants and how much was other. They went on to talk about the types of property that was unclaimed and the entity in control of the said property.

CHAIRMAN NOENNIG asked Ms. Carpenter how much of the unclaimed property was money and warrants and how much was other types of property. He further asked if it was the intention of the bill to exclude all of the property. **Ms. Carpenter** that they were only talking about county warrants. She then remarked on mineral trusts and how they would fit under the bill.

CHAIRMAN NOENNIG and **Ms. Carpenter** then discussed Page 2, Line 24 and Page 3, Line 9 and the types of property, other than warrants, that they might have in unclaimed property.

Mr. Hansen, Montana League of Cities and Towns, distributed the report of unclaimed property from the City of Columbia Falls for the Committee's information, attached as Exhibit 4.

EXHIBIT (loh75a04)

Closing by Sponsor:

SEN. TASH remarked that the reason the bill was before them was because of the confusion on the amounts of money due. He went on to remind the Committee that there are other states that allow local government exemptions from unclaimed properties. He continued that the Clerks of Court would still have to report to the State all unclaimed properties. He concluded that he hoped the Committee would give the bill a do concur.

{Tape: 2; Side: A; Approx. Time Counter: 0.7 - 26.9}

EXECUTIVE ACTION ON SB 89

Motion: REP. OLSON moved that SB 89 BE CONCURRED IN.

Discussion:

REP. MENDENHALL and **CHAIRMAN NOENNIG** discussed the reason for, and the intent of, the bill. They further discussed the responsibility of the State for reuniting the unclaimed property with its rightful owner.

REP. MENDENHALL asked Ms. Carpenter if it was the responsibility of the State or county to reunite unclaimed property with its rightful owner. **Ms. Carpenter** responded that if the warrant was for less than \$50.00 the State did not attempt to reunite the unclaimed property with its owner.

REP. MORGAN asked **CHAIRMAN NOENNIG** to explain what happened to real property that was left unclaimed and money received from county auctions. **CHAIRMAN NOENNIG** responded that real property was land and items permanently affixed to land which would include mineral interests. Personal property, such as vehicles, would be handled in a disposal fashion.

REP. MORGAN asked Mr. Peterson to respond to her question. **Mr. Peterson** replied that the unclaimed property laws dealt mainly with intangible property.

CHAIRMAN NOENNIG, REP. MORGAN and **Mr. Peterson** further discussed intangible unclaimed property and its relationship to SB 89.

REP. CARNEY stated that she felt the State would save money by allowing the counties to handle the unclaimed property.

REP. BECKER asked about 2-7-501. **CHAIRMAN NOENNIG** responded that it was the definition of local government.

**Vote: Motion that SB 89 BE CONCURRED IN carried 16-0 by voice
vote with REPS. DEVLIN and MAEDJE voting aye by proxy.**

REP. CARNEY will carry SB 89 on the floor of the House.

ADJOURNMENT

Adjournment: 4:40 P.M.

REP. MARK NOENNIG, Chairman

MARI PREWETT, Secretary

MN/LK

EXHIBIT (loh75aad)